

Service Date: March 1, 1982

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application)
of the Town of Fairview to Increase) UTILITY DIVISION
Water Rates and Implement a Water) DOCKET NO. 81.5.56
Hookup Fee.) ORDER NO. 4880a

A proposed order in Docket No. 81.5.56 was issued with a service date of January 15, 1982, exceptions to the proposed order were presented to the Commission within twenty days of the service date.

FINDINGS OF FACT

1. Mr. William C. Gable, a subscriber of the utility, filed exceptions to Proposed Order No. 4880, issued by Chairman Gordon E. Bollinger on January 15, 1982. Mr. Gable presented exceptions to the rate structure adopted in the proposed order and the Commission's failure to address the Town's assessment of a hookup fee prior to receiving Commission approval for such a fee.

2. A copy of Mr. Gable's exceptions to the proposed order were forwarded to the Town so that they would have an opportunity to respond to the issues presented. The Town filed a response to each of the exceptions, presented by Mr. Gable, on February 16, 1982.

3. The Commission, by oversight, failed to address the Town's assessment of a hookup fee without having specific Commission approval for the assessment of said fee. It is contrary to statute for any utility to collect a fee that is not specified in its tariff of rates and charges as approved by

this Commission (69-3-305 MCA). Notwithstanding, that statutory cite it is not within this Commission's jurisdiction to order a refund of any monies collected by a utility for non-tariffed items (Montana-Dakota utilities vs. Public Service Commission, Lewis and Clark County District Court, Cause No. 46028, July 6, 1981.). The proper authority to handle the question of any refund relative to the utility collecting an illegal fee is the District Court.

4. The Town and Mr. Gable presented their rationale relative to rate structure in written form, and the Commission finds it unnecessary to reiterate them in this Order since both are part of the record in this Docket. The Commission has reviewed both filings and determined that the rate structure as proposed by the Town is just and reasonable, absent a cost of service study. The Commission recognizes that the water system is totally unmetered, necessitating the use of flat monthly charges, which may create a certain degree of rate inequity between the various customer classes based on usage. But, the only way to insure that each customer class is paying its equitable share, is by the installation of meters wherein each customer would pay for the actual amount of product consumed.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all interested parties an opportunity to participate in this proceeding.

3. The rates approved herein are just and reasonable.

ORDER

NOW; THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1227 - 11th Avenue, Helena, Montana, on the 22nd day of February, 1982, their being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. 81.5.56, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of the Town of Fairview, Montana is approved as ordered by Commissioner Gordon Bollinger, in his Proposed Order No. 4880, dated January 15, 1982.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first-class mail to the Applicant herein, and by first-class United States mail to all other appearances herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, and incorporates Proposed Order No. 4880 by reference.

DONE IN OPEN SESSION at Helena, Montana, this 22nd day of February, 1982 by a 4 - 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

CLYDE JARVIS, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38.2.4806 ARM.